Copyright Board of Canada

For the period ending March 31, 2007

Departmental Performance Report

Minister of Industry

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SECTION I

DEPARTMENTAL OVERVIEW

Minister's Message

I am pleased to present the Copyright Board of Canada *Departmental Performance Report* for 2006–07.

My goal as Minister of Industry, and one of the top priorities of Canada's New Government, is to ensure we maintain a strong economic environment — one that allows Canadians to prosper in the global economy. We are seeing great changes in the international marketplace. New trade agreements, rapidly advancing technologies and the emergence of developing countries are all contributing to today's business environment. Canada needs to keep pace.

Part of my mandate is to help make Canadians more productive and competitive. We want our industries to continue to thrive and all Canadians to continue to enjoy one of the highest standards of living in the world.

For this to happen, the government is committed to maintaining a fair, efficient and competitive marketplace — one that encourages investment, sets the stage for greater productivity, and facilitates innovation. We are relying on market forces to a greater extent, regulating only when it is absolutely necessary. Our policies have helped turn research into new products and business processes. In addition, we are making efforts to increase awareness of sustainability practices among Canadian industry, emphasizing the social, environmental and economic benefits they bring.

The Department and the Industry Portfolio have made progress on a wide range of issues this past year, most notably in the areas of telecommunications, science and practical research, manufacturing, small business, consumer protection, patents and copyrights, tourism and economic development.

The Industry Portfolio is composed of Industry Canada and 10 other agencies, Crown corporations and quasi-judicial bodies. These organizations collectively advance Canada's industrial, scientific and economic development, and help ensure that we remain competitive in the global marketplace.

We have accomplished much this year. Using *Advantage Canada* — the government's long-term economic plan — as our roadmap, we have made great strides toward many of our most important goals. We will continue to focus on these goals to support the conditions for a strong economy — an environment that Canadians expect and deserve.

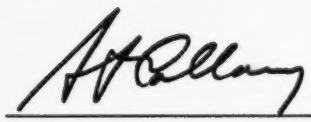
Jim Prentice
Minister of Industry

Management Representation Statement

I submit for tabling in Parliament, the 2006-2007 Departmental Performance Report (DPR) for the Copyright Board of Canada.

This document has been prepared based on the reporting principles contained in the *Guide for the Preparation of Part III of the 2006-2007 Estimates: Reports on Plans and Priorities and Departmental Performance Reports*:

- It adheres to the specific reporting requirements outlined in the Treasury Board Secretariat guidance;
- It is based on the department's approved Strategic Outcome and Program Activity Architecture that were approved by the Treasury Board;
- It presents consistent, comprehensive, balanced and reliable information;
- It provides a basis of accountability for the results achieved with the resources and authorities entrusted to it; and
- It reports finances based on approved spending numbers from the Estimates and the Public Accounts of Canada.



Stephen J. Callary
Vice-Chairman and Chief Executive Officer

Summary Information

Raison d'être

The Copyright Board of Canada's program objective is to set royalties which are fair and equitable to both copyright owners and users of copyright-protected works. This includes setting fair and equitable terms and conditions so as to permit the use of works when the owner of the copyright cannot be located.

The Board is an independent administrative agency that has been conferred department status for purposes of the *Financial Administrative Act*. The mandate of the Board is set out in the *Copyright Act* (the "*Act*"). The Board is empowered to establish, either mandatorily or at the request of an interested party, the royalties to be paid for the use of copyrighted works when the administration of such works is entrusted to a collective administrative society.

The Copyright Board of Canada is an economic regulator. It deals with complex social, cultural, demographic, economic and technological issues (e.g., communications technology, use of music over the Internet, blank CDs, software management systems to protect music or administer rights). The Board's decisions are not appealable, but can be the subject of judicial review by the Federal Court of Appeal. The Board has existed in one form or another since the 1930s, but its jurisdiction was significantly expanded in 1989 and 1997.

The program objective of the Board underlies the achievement of strategic outcomes related to the treatment of copyrighted works in Canada. As noted in *Canada's Performance 2006* (http://www.tbs-sct.gc.ca/report/govrev/06/cp-rc02_e.asp), in order to build a globally competitive economy, the Government of Canada is dedicated to pursuing its commitment to invest in skilled knowledge workers, cutting-edge research, science, and innovation. Innovation through new knowledge has become the main source of competitive advantage in all sectors of economic activity and is closely associated with increased exports, productivity growth, and the creation of new firms.

In this context, our country's handling of intellectual property matters is a critical element in our long-term success in innovation, and by extension, to our long-term economic health. The terms and conditions by which intellectual property owners (such as owners of copyrighted works) are compensated will largely define the incentive structure for innovation in and creation of copyrighted materials. In addition, the design and implementation of regulations can have a significant impact on innovation and competitiveness, particularly in the areas of intellectual property rights.

Innovation through new knowledge has become a main source of competitive advantage in all areas of economic endeavour. The use and re-use of cultural and entertainment content (such as musical works) have become widespread with the advent of new media and on-line services, new playback and editing technologies and new uses in conventional media. These matters manifest themselves in some of society's most complex and contentious issues, including the downloading of musical content over the Internet using file-sharing software, the use of digital decoders to receive scrambled TV signals and the proliferation of duplication technologies, including computers, which have the capability to make digital copies of CDs and DVDs.

The Copyright Board of Canada recognizes the need to ensure an effective and efficient copyright regulatory regime in order to attain the maximum productivity in those sectors that create and use copyrighted works. Further, the strategic outcomes of a fair and competitive marketplace and reasonable opportunities for Canadian firms to export copyright protected goods and services in the music, content creation and programming areas, as well as the downstream broadcasting, publishing and entertainment industries will be impacted by the performance of the Copyright Board.

The Mandate of the Board
The Board is an economic regulatory body empowered to establish, either mandatorily or at the request of an interested party, the royalties to be paid for the use of copyrighted works, when the administration of such copyright is entrusted to a collective-administration society. The Board also has the right to supervise agreements between users and licensing bodies and issues licences when the copyright owner cannot be located.

Total Financial Resources, 2006-2007

($ thousands)

Planned	Authorities	Actual
2,580	2,631	2,364

Total Human Resources, 2006-2007

(Full-time Equivalents (FTE))

Planned	Actual	Difference
17	16	1

Summary of Performance in Relationship to Departmental Strategic Outcomes, Priorities and Commitments

($ thousands)

Strategic Outcome	2006-2007 Priorities/ Commitments	Type	Planned Spending	Actual Spending	Expected Results and Current Status
Achieve fair decision-making to provide proper incentives for the creation and uses of copyrighted works.	Minimizing costs of participating in the hearings while ensuring a fair process and decision.	Ongoing	2,580	2,364	Lead to a more efficient process. Alternative procedural practices are being evaluated. Some specific hearings were combined.
	Facilitating the hearing process by providing appropriate guidance, information and analysis.	Ongoing			Lead to better-informed parties. Telephone advisories and case management meetings were conducted.
	Issuing timely, fair and consistent decisions.	Ongoing			Lead to decisions that take into account the ever-changing technological environment, global events and new business models.
	Increasing participant satisfaction in the hearing process.	Ongoing			Lead to a more efficient process. Informal information gathering from participants done.
	Demonstrating leadership in the domestic and international arenas to advance the analytical framework for decisions and the regulatory processes for tariff-setting.	Ongoing			To play a lead role in international activities such as sharing of procedures, data, analysis and other information. Organisation of next major international forum ongoing.
	Responding to the challenges of new technologies and their impact on the use of copyrighted works.	Ongoing			Ensures minimal impact of new technologies on relevant industries. The monitoring is ongoing.

Overall Departmental Performance

Summary

The report documents the Copyright Board's contribution to the protection of the interests of Canadians by setting royalties which are fair and equitable to both copyright owners and users of copyright-protected works.

The Board held two hearings in 2006-2007. The first, which lasted ten days in September 2006, examined the tariff proposed by CMRRA/SODRAC Inc. (CSI) for the reproduction of musical works by online music services for the years 2005-2007. The other, held in October 2006, was on Private Copying for the years 2005-2007. At the end of the reporting period, the decision on Private Copying was still under advisement.

In 2006-2007, the Board issued eleven decisions. Four of them established royalties to be paid to the Society of Composers, Authors and Music Publishers of Canada (SOCAN) under Tariff 19 (Fitness Activities and Dance Instruction) for the years 1996-2006, Tariff 15.A (Background Music) for the year 2005, Tariff 23 (Hotel and Motel In-Room Services) for the years 2001-2006, Tariff 24 (Ringtones) for the years 2003-2005. Another dealt with royalties to be paid to the Neighbouring Rights Collective of Canada (NRCC) under Tariff 3 (Use and Supply of Background Music) for the years 2003-2009 and another reinstated, on an interim basis, the SOCAN-NRCC 2003-2007 tariff for commercial radio stations, pending its re-examination by the Board further to an order by the Federal Court of Appeal. Finally, on November 30, 2006, the Board ruled on an application filed by Standard Radio Inc. regarding the "Regulations Defining Advertising Revenues".

Two decisions dealt with royalties to be paid to CSI for the reproduction of musical works; one by commercial radio stations for the year 2007 and the other by online music services for the years 2005-2007. Another decision established royalties to be collected by the Educational Rights Collective of Canada (ERCC) from educational institutions in Canada for the reproduction and performance of works or other subject-matters communicated to the public by telecommunications for the years 2007-2011. Finally, the Board issued a decision setting the levy to be paid, on an interim basis, for the private copying of sound recordings of musical works for the year 2007.

As for unlocatable copyright owners, 21 licences were issued by the Board for the use of published works for which rights holders could not be found; the nature of works varied from architectural plans to literary and artistic works.

In 2006-2007, the Board also initiated procedures leading to hearings to be held later in 2007 and early 2008. One will re-examine the SOCAN-NRCC Commercial Radio tariff, as per the order of the Federal Court of Appeal. Another will jointly examine tariffs filed by SOCAN, NRCC and CSI targeting subscription radio services, and the last will deal with SOCAN Tariff 16 targeting background music suppliers for the year 2007.

Operating Environment

The mandate of the Copyright Board of Canada is set out in the *Act* as amended in 1997. The Board has powers of a substantive and procedural nature. Some powers are granted to the Board expressly in the *Act*, and some are implicitly recognized by the courts.

The *Act* requires that the Board certify tariffs in the following fields: the public performance or communication of musical works and of sound recordings of musical works, the retransmission of distant television and radio signals, the reproduction of television and radio programs by educational institutions and private copying. In other fields where rights are administered collectively, the Board can be asked by a collective society to set a tariff; if not, the Board can act as an arbitrator if the collective society and a user cannot agree on the terms and conditions of a licence.

The examination process is always the same. The collective society must file a statement of proposed royalties which the Board publishes in the *Canada Gazette*. Tariffs always come into effect on January 1. On or before the preceding 31st of March, the collective society must file a proposed statement of royalties. The users targeted by the proposal (or in the case of private copying, any interested person) or their representatives may object to the statement within sixty days of its publication. The collective society in question and the opponents will then have the opportunity to argue their case in a hearing before the Board. After deliberations, the Board certifies the tariff, publishes it in the *Canada Gazette*, and explains the reasons for its decision in writing.

As a rule, the Board holds hearings. No hearing will be held if proceeding in writing accommodates a small user that would otherwise incur large costs. The hearing may be dispensed with on certain preliminary or interim issues. No hearings have been held yet for a request to use a work whose owner cannot be located. The process has been kept simple. Information is obtained either in writing or through telephone calls.

The Board is responsible for tariffs that are estimated to be worth over $300 million annually. In fact, copyright tariffs underpin several industries which together generated in 2004 an amount representing 4.5% of Canada's GDP, and grew between 1997 and 2004 at a rate exceeding that of the Canadian economy. The stakes are considerable both for copyright holders and for users of copyright. Consequently, interventions before the Board are thorough, sophisticated and often involving expert witnesses, litigation specialists and detailed econometric, business and financial studies, surveys and evidence.

The Board must consider the underlying technologies (such as the Internet, digital radio, satellite communications), the economic issues and the interests of owners and users in order to contribute, with fair and equitable decisions, to the continued growth of this component of Canada's knowledge industries. Sound tariff decisions avoid serious disruption in affected sectors of the national economy and costly and time-consuming court challenges.

The decisions the Board makes are constrained in several respects. These constraints come from sources external to the Board: the law, regulations and judicial pronouncements. Others are self-imposed, in the form of guiding principles that can be found in the Board's decisions.

Court decisions also provide a large part of the framework within which the Board operates. Most decisions focus on issues of procedure, or apply the general principles of administrative decision-making to the specific circumstances of the Board. However, the courts have also set out several substantive principles for the Board to follow or that determine the ambit of the Board's mandate or discretion.

The Board also enjoys a fair amount of discretion, especially in areas of fact or policy. In making decisions, the Board itself has used various principles or concepts. Strictly speaking, these principles are not binding on the Board. They can be challenged by anyone at anytime. Indeed, the Board would illegally fetter its discretion if it considered itself bound by its previous decisions. However, these principles do offer guidance to both the Board and those who appear before it. In fact, they are essential to ensuring a desirable amount of consistency in decision-making.

Among those factors, the following seem to be the most prevalent: the coherence between the various elements of the public performance of music tariffs, the practicality aspects, the ease of administration to avoid tariff structures that make it difficult to administer the tariff in a given market, the search for non-discriminatory practices, the relative use of protected works, the taking into account of Canadian circumstances, the stability in the setting of tariffs that minimizes disruption to users, as well as the comparisons with "proxy" markets and comparisons with similar prices in foreign markets.

Mandate, Roles and Responsibilities

The Copyright Board of Canada was established on February 1, 1989, as the successor of the Copyright Appeal Board. Its responsibilities under the *Act* are to:

- certify tariffs for the public performance or the communication to the public by telecommunication of musical works and sound recordings [sections 67 to 69];
- certify tariffs, at the option of a collective society referred to in section 70.1, for the doing of any protected act mentioned in sections 3, 15, 18 and 21 of the *Act* [sections 70.1 to 70.191];
- set royalties payable by a user to a collective society, when there is disagreement on the royalties or on the related terms and conditions [sections 70.2 to 70.4];
- certify tariffs for the retransmission of distant television and radio signals or the reproduction and public performance by educational institutions, of radio or television news or news commentary programs and all other programs, for educational or training purposes [sections 71 to 76];
- set levies for the private copying of recorded musical works [sections 79 to 88];
- rule on applications for non-exclusive licences to use published works, fixed performances, published sound recordings and fixed communication signals, when the copyright owner cannot be located [section 77];
- examine, at the request of the Commissioner of Competition appointed under the *Competition Act*, agreements made between a collective society and a user which have

been filed with the Board, where the Commissioner considers that the agreement is contrary to the public interest [sections 70.5 and 70.6];

- set compensation, under certain circumstances, for formerly unprotected acts in countries that later join the Berne Convention, the Universal Convention or the Agreement establishing the World Trade Organization [section 78].

In addition, the Minister of Industry can direct the Board to conduct studies with respect to the exercise of its powers [section 66.8].

Finally, any party to an agreement on a licence with a collective society can file the agreement with the Board within 15 days of its conclusion, thereby avoiding certain provisions of the *Competition Act* [section 70.5].

Decisions and Licences

During 2006-2007, the Board held two hearings and issued eleven decisions. In addition, important decisions were issued by the Federal Court of Appeal. What follows is a brief summary of these activities listed on the basis of the various legal regimes which apply to each category. For further detail, please refer to the Board's 2006-2007 Annual Report that can be found at www.cb-cda.gc.ca.

1. Public Performance of Music

In 2006-2007, the Board rendered six decisions with regard to tariffs and one in respect of an application:

- Tariff 19 of the Society of Composers, Authors and Music Publishers of Canada (SOCAN) for physical exercises and dance courses for the years 1996 to 2006 (April 21, 2006).
- SOCAN Tariff 15.A for background music for the year 2005 (June 2, 2006).
- SOCAN Tariff 23 for hotel and motel in-room services for the years 2001 to 2006 (June 30, 2006).
- SOCAN Tariff 24 for ringtones for the years 2003 to 2005 (August 18, 2006).
- Tariff 3 of the Neighbouring Rights Collective of Canada (NRCC) for the use and distribution of background music for the years 2003 to 2009 (October 20, 2006).
- Interim SOCAN-NRCC Tariff for commercial radio stations for the years 2003 to 2007 (November 24, 2006).
- Board's decision with respect to the application filed by Standard Radio Inc. regarding the "Regulations Defining Advertising Revenues" (November 30, 2006).

2. Private Copying

In October 2006, the Board held a hearing on Private Copying for the years 2005-2007.

On December 14, 2006, the Board issued an interim decision extending for 2007 the application of the *Private Copying Tariff, 2003-2004*.

3. Collective Administration (General Regime)

In 2006-2007, the Board held a hearing on the tariff proposed by CMRRA/SODRAC Inc. (CSI) for the reproduction of musical works in Canada, by online music services, for the years 2005 to 2007. The hearing, which lasted ten days, was held in September 2006.

In addition, the Board rendered three decisions certifying tariffs either for the reproduction of musical works or for the reproduction and performance of works of other subject-matters.

The first one, rendered on February 16, 2007, certified the royalties to be collected by CSI for the reproduction, in Canada, of musical works by commercial radio stations in 2007. The second one, rendered on March 16, 2007, certified the royalties to be collected by CSI for the reproduction, in Canada, of musical works by online music services for the years 2005 to 2007. And finally, the third one, also rendered on February 16, 2007, certified the royalties to be collected by ERCC for the reproduction and performance of works and other subject-matters communicated to the public by telecommunications for the years 2007 to 2011.

4. Arbitration Proceedings

Pursuant to section 70.2 of the *Act*, on application of the society or the user, the Board can set the royalties and other terms of a licence for the use of the repertoire of a collective society subject to section 70.1, when the society and a user are unable to agree on the terms of the licence.

In July 2005, MusiSélect inc. had filed such an application asking the Board to fix the terms and conditions of a licence for the reproduction of sound recordings in the repertoire of the Audio-Video Licensing Agency (AVLA). On May 18, 2006, MusiSélect Inc. informed the Board that an agreement had been reached with AVLA. In compliance with subsection 70.3(1) of the *Act*, the Board did not proceed with the application.

5. Unlocatable Copyright Owners

During the fiscal year, 43 applications were filed with the Board and 21 non-exclusive licences were issued for the use of published works for which rights holders could not be found; the nature of works varied from architectural plans to literary or artistic works.

6. Agreements Filed with the Board

In 2006-2007, 93 agreements were filed with the Board as per section 70.5 of the *Act*.

Access Copyright, The Canadian Copyright Licensing Agency, which licenses reproduction rights such as digital licensing and photocopy rights, on behalf of writers, publishers and other

creators, filed 61 agreements granting various educational institutions, language schools, non-profit associations and copy shops a licence to photocopy works in its repertoire.

The *Société québécoise de gestion collective des droits de reproduction* (COPIBEC) filed 19 agreements. COPIBEC is the collective society which authorizes in Quebec the reproduction of works from Quebec, Canadian (through a bilateral agreement with Access Copyright) and foreign rights holders. The agreements filed in 2006-2007 have been concluded with various organisations, municipalities as well as *Bibliothèque et archives nationales du Québec*.

The Audio-Video Licensing Agency (AVLA), which is a copyright collective that administers the copyright for owners of master and music video recordings, filed 6 agreements.

The Canadian Musical Reproduction Rights Agency (CMRRA), a Canadian centralized licensing and collecting agency for the reproduction rights of musical works in Canada, has filed for its part four agreements it concluded with Warner Music Canada, EMI Music Canada, SONY BMG Canada and Universal Music Canada.

Finally, the Canadian Broadcasters Rights Agency (CBRA) filed three agreements it entered into with regard to media monitoring by non-commercial services, namely the Government of Alberta, the Government of British Columbia and the Government of Ontario. CBRA represents various Canadian private broadcasters who create and own radio and television news and current affairs programs and communication signals.

7. Court Decisions

On October 14, 2005, the Board certified the *SOCAN-NRCC Commercial Radio Tariff, 2003-2007.* That tariff significantly increased the royalties that commercial radio stations pay to broadcast musical works and sound recordings. The Canadian Association of Broadcasters (CAB) applied for judicial review of that decision on two grounds: failure of the Board to consider an objection by CAB to the tariffs proposed by the collectives and inadequacies in the Board's reasons.

The Court rejected CAB's first argument, but found that the Board did no give adequate reasons for its finding that a historical undervaluation warranted an increase of 10 per cent while increased efficiencies in the use of music warranted an increase of 7.5 per cent. As a result, the Court set aside the Board's decision and remitted the matter to the Board to re-determine the issues in respect of which the reasons were found to be inadequate.

In October 2006, the Federal Court of appeal dismissed an application for judicial review filed by the Canadian Recording Industry Association. The application challenged a ruling of the Board that ordered the association to communicate certain information to its members in the context of proceedings that will lead to the examination of CSI's proposed tariff for online music services.

Modern Comptrollership

The Board continued to develop its management practices, working in a cluster group with three other small quasi-judicial agencies, the Competition Tribunal, the Canadian Artists and

Producers Professional Relations Tribunal and the Transportation Appeal Tribunal of Canada. The cluster group focused on the implementation of the new *Public Service Modernization Act*, particularly developing an Informal Conflict Management System, and preparing for the Management Accountability Framework Assessment scheduled for the fall of 2007.

The Board also focused on the development of a Performance Measurement Framework. This framework which is still under development will allow the Board to create and capture the information it needs with regard to its objectives and expected as well as achieved results.

The Board prepared and put in place its Business Continuity Plan. The primary objective of this plan is to enable our organization to survive a disaster and to re-establish normal business operations.

As part of the *Public Service Modernization Act*, the Board worked with other small organizations on the development of a Labour Management Consultation Committee which is an umbrella type structure for micro and small agencies. This Committee is now fully functional.

SECTION II

ANALYSIS OF PROGRAM ACTIVITIES BY STRATEGIC OUTCOME

Copyright Board of Canada

Analysis by Strategic Outcome

The Board's strategic outcome is to ensure fair decision-making to provide proper incentives for the creation and uses of copyrighted works.

Program Activity

The following program activity contributes to this strategic outcome: Render decisions and issue licences

Priorities

There are six priorities associated with the Copyright Board's strategic outcome. These are:

1. Minimizing costs of participating in the hearings while ensuring a fair process and decision;
2. Facilitating the hearing process by providing appropriate guidance, information and analysis;
3. Issuing timely, fair and consistent decisions;
4. Increasing participant satisfaction in the hearing process;
5. Demonstrating leadership in the domestic and international arenas to advance the analytical framework for decisions and the regulatory processes for tariff-setting;
6. Responding to the challenges of new technologies and their impact on the use of copyrighted works.

Minimizing participation costs of the regulatory process results encourages the participation of appropriate parties, streamlines the process, provides more timely decisions and leading to the most satisfactory decisions. The monitoring of these planned results is achieved by initially surveying informally hearing participants, with follow-up examination and determination of alternative procedural practices to improve the efficiency of the regulatory process. The rationale for this priority is directly related to the federal government's program to improve regulatory efficiency. To the extent that this priority also leads to fairer decision-making, the overall innovation capability of parties affected by the copyright tariff process improves.

Each regulatory process involves differing degrees of complexity, different numbers of participants and different requirements for new or original research and data. However, the Board does gain greater efficiency in conducting hearings, particularly once a specific tariff has already been established and subsequent hearings can build on the legacy of the original hearing.

In 2006-2007, the Board took steps which resulted in a reduction of the regulatory burden. For instance, when appropriate, the Board combined hearings processes which have resulted in some cost savings for the participants.

Facilitation through guidance, information and analysis results in better informed parties and better quality of tariff decisions. The achievement of this result is directly monitored through timely conduct of hearing processes and the lack of interruption in proceedings due to administrative and technical delays. Initiatives designed to achieve this result include pre-hearing meetings with interested parties and case management meetings with legal representatives. In addition, the implementation of a pre-hearing joint statement of (non-contested) facts and handling of legal issues solely through written submissions can improve the efficiency of the process. The rationale underlying this priority is to minimize the administrative costs to Canadians from the setting of tariffs and to streamline the process in the face of increasing complexities in hearing subject matter. In 2006-2007, the Board has held case management meetings which resulted in better-informed parties and shorter processes.

The Board's priority of timely, fair and consistent decision-making is challenged by an ever-changing technological environment, global events and new business models. These challenges will continue to be met, and risk minimized, by engaging in pre-hearing consultations, information gathering and web site postings. These procedures will assist in conducting well-organized proceedings which address key issues facing copyright-related industries.

The Board relies on evidence submitted by participants as well as on its own internal and contracted research and analysis resources to develop a strong understanding of the issues relevant to its decisions. Performance measures that are considered include the degree of horizontal and vertical consistency in decisions, timeliness of decisions, the granularity or precision of evidence requested or suggested by the Board and ultimately, the economic impact of the Board's decisions on the sectors that create or utilize copyrighted works.

The Board receives tariffs applications from collective societies on or before March 31 of a given year in which a tariff is scheduled to terminate. The Board has some latitude in the scheduling of hearings and tries to initiate the procedure leading to a hearing as efficiently as possible. The Board posts its upcoming hearing schedule on its website (www.cb-cda.gc.ca). There are no statutory deadlines for the release of the Board's decisions. However, the Board endeavors to deal with all applications as expeditiously as possible, while keeping the interests and constraints of the parties in mind.

The priority of greater participant satisfaction is closely linked to the timeliness and orderly conduct of formal proceedings. The Board plans to continue to structure and sequence witnesses and hearing stages so as to eliminate duplication and maximize time spent on relevant issues.

Because the Board hearings involve adversarial parties, some of whom will likely experience direct economic gain or loss in association with an offsetting gain or loss to another party, the Board's decisions cannot be expected to be satisfactory to all parties at all times. However, the Board attempts to bring unbiased and rigorous reasoning to its decision-making. The Board also recognizes the need to provide clear and sufficiently detailed explanations in its decisions so as to assist parties in preparing for the next round of tariff-setting. The Board is considering various means for tracking or measuring constituent satisfaction with hearing processes.

In addition, the Board will continue to examine alternatives to current procedures based upon input from hearing participants as part of a plan to develop and implement a more active

involvement in pre-hearing information gathering aimed at reducing time and cost to participants while safeguarding the fairness of procedures.

Leadership in copyright matters continued to build on the groundwork performed in the past, as noted in previous Departmental Planning Reports. The Board plans to continue its leadership role in the establishment and expansion of international activities such as sharing of procedures, data, analysis and other information. In this regard, the Board was pleased to host visits of: a delegation from the UK Patent Office commissioned to review the mandate of the UK Copyright Tribunal (September 2006), the Chairman of the UK Copyright Tribunal (September 2006), a Japanese copyright delegation (October 2006), the Asia-Pacific Regional Office of the International Confederation of Societies of Authors and Composers (CISAC) accompanied by a delegation from the Taiwan Copyright Office (November 2006). Board Members and staff also held a day long briefing session with Judges of the U.S. Copyright Royalty Board in Washington (November 2006).

The international initiative is also a key tool in addressing the challenges of changing technology and the impact of global events. By comparing experiences across different countries, the Board can gain early warning of significant developments and their likely impacts on the Canadian situation.

Among the most significant risks which the Board faces in achieving its strategic outcomes is the potentially disruptive impact of new technologies (i.e., in terms of how copyright material is utilized, distributed and monitored). The Board's approach to managing the technology risk is to systematically monitor relevant journals, other publications and web sites, and to attend industry seminars and conferences. Among the international fora of copyright specialists which the Board Members and staff attended in 2006-2007, the following are noteworthy: the Fordham University Annual Conference on International Intellectual Property Law and Policy (New York, April 2006); the International Publishers' Association (IPA) meeting (Montreal, April 2006); the Annual Conference of the *Association littéraire et artistique internationale* (ALAI) (Barcelona, June 2006); and the Annual Congress of the Society for Economic Research on Copyright Issues (SERCI) (Singapore, July 2006). The Board was also represented at numerous similar national meetings in Canada. The rationale for the Board's "screening" activities is to identify and assess industry trends before they undermine existing copyright regimes.

SECTION III

SUPPLEMENTARY INFORMATION

Copyright Board of Canada

Organizational Information

Role

The Board is an economic regulatory body empowered to establish, either mandatorily or at the request of an interested party, the royalties to be paid for the use of copyrighted works, when the administration of such copyright is entrusted to a copyright collective society. Moreover, the Board supervises agreements between users and licensing bodies, issues licences when the copyright owner cannot be located, and may determine the compensation to be paid by a copyright owner to a user when there is a risk that the coming into force of a new copyright might adversely affect the latter.

The Board has powers of a substantive and procedural nature. Some powers are granted to the Board expressly in the *Act*, and some are implicitly recognized by the courts. The Board is a court of record and has powers to hold hearings and issue subpoenas.

Responsibilities and Organization

Board members are appointed by the Governor in Council to hold office during good behaviour for a term not exceeding five years. They may be reappointed once.

The *Act* requires that the Chairman must be a judge, either sitting or retired, of a superior, county or district court. The Chairman directs the work of the Board and apportions its caseload among the members.

The *Act* also designates the Vice-Chairman as Chief Executive Officer of the Board. He or she exercises direction over the Board and supervises its staff.

The organizational structure of the Board follows the requirements set out in section 66 and following sections of the *Act*.

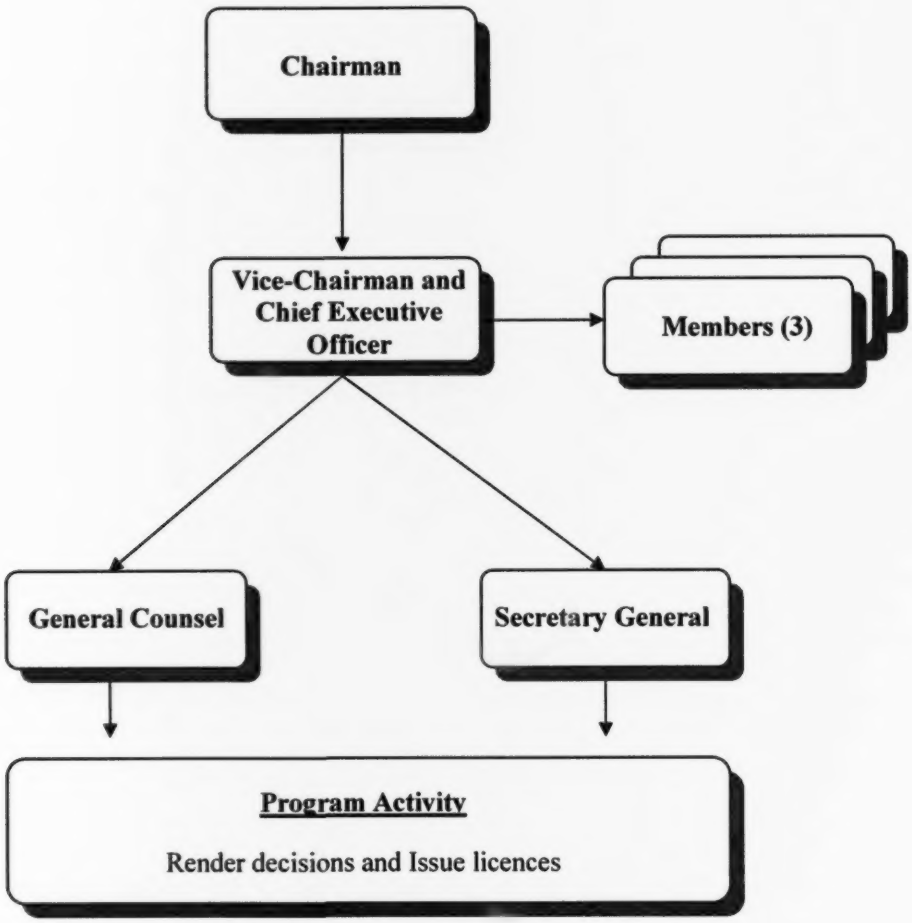
The Board's Staff

The Board has a staff of twelve employees, two of whom report to the Chief Executive Officer: the Secretary General and the General Counsel.

The Secretary General plans the Board's operations, serves as its Registrar, represents the Board in its relations with members of parliament, provincial governments, the media and the public and directs the preparation of the Board's reports to Parliament and to the federal government's central agencies. The Secretary General is also responsible for managing and directing the economic research, analysis and planning functions as well as the registry and administrative and financial support functions.

The General Counsel provides legal advice on tariff and licence applications before the Board. The General Counsel also represents the Board before the Courts in matters involving its jurisdiction.

Organizational Structure of the Board



The Board has 17 full time equivalents (5 Governor in Council appointees and 12 employees).

Copyright Board of Canada

Table 1: Comparison of Planned to Actual Spending (incl. FTEs)

($ thousands)

	2004–2005 Actual	2005-2006 Actual	2006-2007 Main Estimates	2006-2007 Planned Spending	2006-2007 Total Authorities	2006-2007 Actual
Render Decisions and Issue Licences	2,268	2,342	2,580	2,580	2,631	2,364
Total	**2,268**	**2,342**	**2,580**	**2,580**	**2,631**	**2,364**

Total	**2,268**	**2,342**	**2,580**	**2,580**	**2,631**	**2,364**
Less: Non-respendable revenue	-	-	-	-	-	-
Plus: Cost of services received without charge	341	348	333	333	333	333
Net cost of Department	**2,609**	**2,690**	**2,913**	**2,913**	**2,964**	**2,697**

Full Time Equivalents *	**15**	**15**		**16**

* This total includes four Governor in Council appointees.

Table 2: Use of Resources by Program Activities

($ thousands)

2006-2007								
			Budgetary				Plus: Non-Budgetary	
Program Activity – PA	Operating	Capital	Grants and Contri-butions	Total: Gross Budgetary Expenditures	Less: Respendable Revenue	Total: Net Budgetary Expenditures	Loans, Investments and Advances	Total
Render decisions and Issue Licences								
Main Estimates	2,580	-	-	2,580	-	2,580	-	2,580
Planned Spending	2,580	-	-	2,580	-	2,580	-	2,580
Total Authorities	2,631	-	-	2,631	-	2,631	-	2,631
Actual Spending	2,364	-	-	2,364	-	2,364	-	2,364

Table 3: Voted and Statutory Items

($ thousands)

Vote or Statutory Item	Truncated Vote or Statutory Wording	2006-2007			
		Main Estimates	Planned Spending	Total Authorities	Actual
50	Program expenditures	2,274	2,274	2,408*	2,141
(S)	Contributions to employee benefit plans	306	306	223	223
	Total	**2,580**	**2,580**	**2,631**	**2,364**

* This amount includes the 5% carry forward of $110,300 from the 2005-2006 budget and $23,000 for collective bargaining agreements.

Copyright Board of Canada

Table 4: Services Received Without Charge

($ thousands)

	Actual 2006-2007
Accommodation provided by Public Works and Government Services Canada (PWGSC)	230
Contributions covering employers' share of employees' insurance premiums and expenditures paid by TBS (excluding revolving funds)	103
Salary and associated expenditures of legal services provided by The Department of Justice Canada	-
Total 2006-2007 Services received without charge	**333**

ANNEX A
2006-2007 FINANCIAL STATEMENTS (Unaudited)

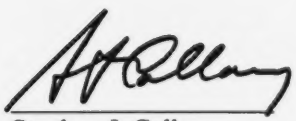
Statement of Management Responsibility

Responsibility for the integrity and objectivity of the accompanying financial statements for the year ended March 31, 2007 and all information contained in these statements rests with departmental management. These financial statements have been prepared by management in accordance with Treasury Board accounting policies which are consistent with Canadian generally accepted accounting principles for the public sector.

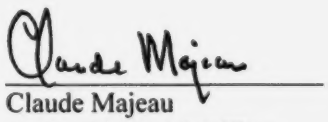
Management is responsible for the integrity and objectivity of the information in these financial statements. Some of the information in the financial statements is based on management's best estimates and judgment and gives due consideration to materiality. To fulfil its accounting and reporting responsibilities, management maintains a set of accounts that provides a centralized record of the department's financial transactions. Financial information submitted to the *Public Accounts of Canada* and included in the department's *Departmental Performance Report* is consistent with these financial statements.

Management maintains a system of financial management and internal control designed to provide reasonable assurance that financial information is reliable, that assets are safeguarded and that transactions are in accordance with the *Financial Administration Act,* are executed in accordance with prescribed regulations, within Parliamentary authorities, and are properly recorded to maintain accountability of Government funds. Management also seeks to ensure the objectivity and integrity of data in its financial statements by careful selection, training and development of qualified staff, by organizational arrangements that provide appropriate divisions of responsibility, and by communication programs aimed at ensuring that regulations, policies, standards and managerial authorities are understood throughout the department.

The financial statements of the department have not been audited.



Stephen J. Callary
Deputy Head



Claude Majeau
Senior Financial Officer

Copyright Board of Canada
Statement of Operations (unaudited)
For the year ended March 31
(in dollars)

	2007	2006
Operating Expense		
Salaries and employee benefits	1 691 440	1 771 613
Professional and special services	386 837	320 534
Accommodation	230 000	224 500
Travel	168 794	122 586
Rental	63 295	67 517
Information Services	56 099	62 005
Telecommunication Services	46 224	68 136
Utitlities, materials and supplies	44 288	37 446
Other	28 109	37 578
Amortization	11 039	11 039
Repair and Maintenance	2 314	18 545
Total Expenses	**2 728 439**	**2 741 499**
Revenues		
Gain on Disposal of Non-Capital Asset	0	376
Total revenues	0	376
Net cost of operations	**2 728 439**	**2 741 123**

The accompanying notes form an integral part of these financial statements

Copyright Board of Canada
Statement of Financial Position (unaudited)
At March 31

(in dollars)

ASSETS	2007	2006
Financial assets		
Accounts receivable (Note 8)	84 572	90 353
Total financial assets	**84 572**	**90 353**
Non-financial assets		
Tangible capital assets (Note 5)	86 192	97 231
Total non-financial assets	**86 192**	**97 231**
TOTAL	**170 764**	**187 584**
Liabilities		
Accounts payable and accrued liabilities (Note 4)	114 194	122 444
Vacation pay and compensatory leave	146 546	124 119
Employee future benefits (Note 6)	179 001	180 080
Total liabilities	**439 741**	**426 643**
Equity of Canada	**(268 977)**	**(239 059)**
TOTAL	**170 764**	**187 584**

Contractual obligations (Note 7)

The accompanying notes form an integral part of these financial statements

Copyright Board of Canada
Statement of Equity of Canada (unaudited)
For the year ended March 31
(in dollars)

	2007	2006
Equity of Canada, beginning of year	(239 059)	(279 772)
Net cost of operations	(2 728 439)	(2 741 123)
Current year appropriations used (Note 3)	2 363 564	2 342 224
Revenue not available for spending	(76)	0
Change in net position in the Consolidated Revenue Fund (Note 3)	2 469	92 506
Services provided without charge (Note 8)	332 564	347 106
Equity of Canada, end of year	**(268 977)**	**(239 059)**

The accompanying notes form an integral part of these financial statements

Copyright Board of Canada
Statement of Cash Flow (unaudited)
For the year ended March 31
(in dollars)

	2007	2006
Operating activities		
Net cost of operations	**2 728 439**	**2 741 123**
Non cash items:		
Services provided without charge (Note 8)	(332 564)	(347 106)
Amortization of tangible capital assets (Note 5)	(11 039)	(11 039)
Gain (Loss) on disposal of non-capital assets	0	376
Variations in Statement of Financial Position:		
Decrease (increase) in liabilities	(13 098)	66 659
Increase (decrease) receivables	(5 781)	(14 907)
Cash used by operating activities	**2 365 957**	**2 435 106**
Capital investment activities		
Proceeds from disposal of non capital assets	0	(376)
Cash used by capital investing activities	**0**	**(376)**
Financing activities		
Net cash provided by Government of Canada	**2 365 957**	**2 434 730**

The accompanying notes form an integral part of these financial statements

Copyright Board of Canada

Notes to the Financial Statements (unaudited)

1 - Authority and Objectives

The Copyright Board of Canada is an independent administrative agency which has been conferred department status for purposes of the *Financial Administration Act*. Its mandate stems from the *Copyright Act*.

The Copyright Board of Canada plays a major role in the collective administration of copyright, particularly where the public performance and the communication to the public, by telecommunication, of musical works, as well as the retransmission of distant radio and television signals are concerned. The Board plays a surveillance role in three ways with respect to collective societies which administer very large repertoires of work created by a multitude of originators both in Canada and in other countries: as an economic regulatory body, by approving tariff proposals by the various copyright collective societies; as an arbitrator in private disputes; and as an arbitrator of the public interest.

The Board's principal mandate is to set royalties which are fair and reasonable for both copyright owners and the users of copyright-protected works, as well as issuing non-exclusive licences authorizing the fully legal use of works when the copyright owner cannot be located.

The Board reports annually to Parliament through the Minister of Industry.

2 - Summary of Significant Accounting Policies

The financial statements have been prepared in accordance with accounting standards issued by the Treasury Board of Canada Secretariat which are consistent with Canadian generally accepted accounting principles for the public sector.

Significant accounting policies are as follows:

(a) Parliamentary appropriations – the Department is financed by the Government of Canada through Parliamentary appropriations. Appropriations provided to the department do not parallel financial reporting according to generally accepted accounting principles since appropriations are primarily based on cash flow requirements. Consequently, items recognized in the statement of operations and the statement of financial position are not necessarily the same as those provided through appropriations from Parliament. Note 3 provides a high-level reconciliation between the two bases of reporting.

(b) Net Cash Provided by Government – The department operates within the Consolidated Revenue Fund (CRF). The CRF is administered by the Receiver General for Canada. All cash received by the department is deposited to the CRF and all cash disbursements made by the department are paid from the CRF. The net cash provided by Government is the difference between all cash receipts and all cash disbursements including transactions between departments of the federal government.

(c) Change in net position in the Consolidated Revenue Fund is the difference between the net cash provided by the Government and appropriations used in the year, excluding the amount of non-respendable revenue recorded by the department. It results from timing between when a transaction affects appropriations and when it is processed through the CRF.

(d) Revenues – Revenues are accounted for in the period in which the underlying transaction or event occurred that gave rise to the revenues.

(e) Expenses – Expenses are recorded on the accrual basis:

- Vacation pay and compensatory leave are expensed as the benefits accrue to employees under their respective terms of employment.

- Services provided without charge by other government departments for accommodation, the employer's contribution to the health and dental insurance plans and legal services are recorded as operating expenses at their estimated cost.

(f) Employee future benefits

I. Pension benefits: Eligible employees participate in the Public Service Pension Plan, a multiemployer plan administered by the Government of Canada. The department's contributions to the Plan are charged to expenses in the year incurred and represent the total departmental obligation to the Plan. Current legislation does not require the department to make contributions for any actuarial deficiencies of the Plan.

II. Severance benefits: Employees are entitled to severance benefits under labour contracts or conditions of employment. These benefits are accrued as employees render the services necessary to earn them. The obligation relating to the benefits earned by employees is calculated using information derived from the results of the actuarially determined liability for employee severance benefits for the Government as a whole.

(g) Account receivables are stated at amounts expected to be ultimately realized; a provision is made for receivables where recovery is considered uncertain.

(h) Tangible capital assets – All tangible capital assets and leasehold improvements having an initial cost of $10,000 or more are recorded at their acquisition cost. The department does not capitalize intangibles, works of art and historical treasures that have cultural, aesthetic or historical value, assets located on Indian Reserves and museum collections.

Amortization of tangible capital assets is done on a straight-line basis over the estimated useful life of the assets as follows:

Asset	Amortization period
Machinery and Equipment	10 years

(i) Measurement uncertainty — The preparation of these financial statements in accordance with accounting standards issued by the Treasury Board of Canada Secretariat which are consistent with Canadian generally accepted accounting principles for the public sector requires management to make estimates and assumptions that affect the reported amounts of assets, liabilities, revenues and expenses reported in the financial statements. At the time of preparation of these statements, management believes the estimates and assumptions to be reasonable. The most significant items where estimates are used are the liability for employee severance benefits and the useful life of tangible capital assets. Actual results could differ from those estimated. Management's estimates are reviewed periodically and, as adjustments become necessary, they are recorded in the financial statements in the year they become known.

3 - Parliamentary Appropriations

The Department receives most of its funding through annual Parliamentary appropriations. Items recognized in the statement of operations and the statement of financial position in one year may be

funded through Parliamentary appropriations in prior, current or future years. Accordingly, the Department has different net results of operations for the year on a government funding basis than on an accrual accounting basis. The differences between net results of operations and appropriations are reconciled in the following tables.

3a) Reconciliation of net cost of appropriations to current year appropriations used

(in dollars)	2007	2006
Net cost of operations	2 728 439	2 741 123
Adjustments for items affecting net cost of operations but not affecting appropriations:		
Add (Less):		
Services received without charge (Note 8)	(332 564)	(347 106)
Employee severance benefits (Note 6)	1 079	(30 872)
Amortization of tangible capital assets (Note 5)	(11 039)	(11 039)
Vacation pay and compensatory leave	(22 427)	(10 558)
Gain on disposal of non-capital assets	0	376
Other	76	300
	(364 875)	(398 899)
Current year appropriations used	**2 363 564**	**2 342 224**

3b) Appropriations provided and used

(in dollars)	2007	2006
Vote 50 - Operating expenditures	2 407 300	2 267 000
Statutory Amounts	223 607	247 970
Less:		
Appropriations available for future years	0	(376)
Lapsed appropriations: Operating	(267 343)	(172 370)
Current year appropriations used	**2 363 564**	**2 342 224**

Copyright Board of Canada

3c) Reconciliation of net cash provided by Government to current year appropriations used

(in dollars)

	2007	2006
Net cash provided by Government of Canada	2 365 957	2 434 730
Refund of previous year expenditure	76	0
Change in net position in the Consolidated Revenue Fund		
Variation in accounts payable and accrued liabilities	(8 250)	(66 659)
Variation in accounts receivable and advances	5 781	14 907
Other adjustments	0	(40 754)
	(2 469)	(92 506)
Current year appropriations used	2 363 564	2 342 224

4. Accounts payable and Accrued liabilities

	2007	2006
External		
Accrued liabilities	62 975	79 790
Accrued salaries and wages	30 082	31 521
Total External	**93 057**	**111 311**
Other Federal Government departments	21 137	11 133
Total Accounts payable and accrued liabilities	**114 194**	**122 444**

5. Tangible Capital Assets

(in dollars)

	Cost		Accumulated amortization			2007	2006
Capital asset class	**Opening balance**	**Closing balance**	**Opening Balance**	**Amortization**	**Closing Balance**	**Net book value**	**Net book value**
Machinery and equipment	158 827	158 827	61 596	11 039	72 635	86 192	97 231
Total	**158 827**	**158 827**	**61 596**	**11 039**	**72 635**	**86 192**	**97 231**

*Amoritization expense for the year ended March 31, 2007 is $11,039 (2006: $11,039)

6. Employee Benefits

a) Pension benefits: The department's employees participate in the Public Service Pension Plan, which is sponsored and administered by the Government of Canada. Pension benefits accrue up to a maximum period of 35 years at a rate of 2 per cent per year of pensionable service, times the average of the best five consecutive years of earnings. The benefits are integrated with Canada/Québec Pension Plans benefits and they are indexed to inflation.

Both the employees and the department contribute to the cost of the Plan. The 2006-2007 expense amounts to $223,231 ($222,826 in 2005-2006), which represents approximately 2.2 (2.6 in 2005-2006) time the contributions by employees.

The department's responsibility with regard to the Plan is limited to its contributions. Actuarial surpluses or deficiencies are recognized in the financial statements of the Government of Canada, as the Plan's sponsor.

(b) Severance benefits: The department provides severance benefits to its employees based on eligibility, years of service and final salary. These severance benefits are not pre-funded. Benefits will be paid from future appropriations. Information about the severance benefits, measured as at March 31, is as follows:

(in dollars)	**2007**	**2006**
Accrued benefit obligation, beginning of year	180 080	149 208
Expense for the year	10 740	30 872
Benefits paid during the year	11 819	0
Accrued benefit obligation, end of year	**179 001**	**180 080**

7. Contractual Obligations

The nature of the department's activities can result in some large multi-year contracts and obligations whereby the department will be obligated to make future payments when the services/goods are received. Significant contractual obligations that can be reasonably estimated are summarized as follows:

(in dollars)	**2008**	**2009**	**2010**	**2011**	**2012 and thereafter**	**Total**
Acquisition of goods and services	427 785	6 353	9 041	5 417	5 560	454 156
Employer contributions	251 333	0	0	0	0	251 333
Total	679 118	6 353	9 041	5 417	5 560	705 489

8. Related party transactions

The department is related as a result of common ownership to all Government of Canada departments, agencies, and Crown corporations. The department enters into transactions with these entities in the normal course of business and on normal trade terms. Also, during the year, the department received services, which were obtained without charge from other Government departments as presented in part (a).

Copyright Board of Canada

(a) Services provided without charge:

During the year the department received without charge from other departments, accommodation and the employer's contribution to the health and dental insurance plans. These services without charge have been recognized in the department's Statement of Operations as follows:

Services Provided without charge *(in dollars)*	**2007**	**2006**
Accommodation	230 000	224 500
Employer's contribution to the insurance plans	102 564	122 606
Total	**332 564**	**347 106**

The Government has structured some of its administrative activities for efficiency and cost-effectiveness purposes so that one department performs these on behalf of all without charge. The costs of these services, which include payroll and cheque issuance services provided by Public Works and Government Services Canada, are not included as an expense in the department's Statement of Operations as follows:

(b) Receivables outstanding at year-end with related parties:

(in dollars)	**2007**	**2006**
Receivables from other Federal Government departments	84 572	90 353
Total	**84 572**	**90 353**

9. Comparative Information

Comparative figures have been reclassified to conform to the current year's presentation.